

House File 873 - Introduced

HOUSE FILE _____
BY COMMITTEE ON ENVIRONMENTAL
PROTECTION

(SUCCESSOR TO HSB 267)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing for environmental protection of facilities and
2 practices related to the production of livestock, including
3 animal feeding operations, providing for fees and tax
4 exemptions, making penalties applicable, and providing
5 effective and applicability dates.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
7 TLSB 2838HV 82
8 da/je/5

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1 1 DIVISION I
1 2 REGULATION OF ANIMAL FEEDING OPERATIONS
1 3 Section 1. Section 331.304A, Code 2007, is amended to read
1 4 as follows:
1 5 331.304A LIMITATIONS ON COUNTY LEGISLATION.
1 6 1. As used in this section:
1 7 a. "Aerobic structure", "animal", "animal feeding
1 8 operation", "animal feeding operation structure", "confinement
1 9 feeding operation structure", and "manure" mean the same as
1 10 defined in section 459.102.
1 11 b. "County legislation" means any ordinance, motion,
1 12 resolution, or amendment adopted by a county pursuant to
1 13 section 331.302.
1 14 2. a. Except as provided in subsection 3, a county
1 15 shall not adopt or enforce county legislation regulating a
1 16 condition or activity occurring on land used for the
1 17 production, care, feeding, or housing of animals unless the
1 18 regulation of the production, care, feeding, or housing of
1 19 animals is expressly authorized by state law. County
1 20 legislation adopted in violation of this section is void and
1 21 unenforceable and any enforcement activity conducted in
1 22 violation of this section is void.
1 23 b. A condition or activity occurring on land used for the
1 24 production, care, feeding, or housing of animals includes but
1 25 is not limited to the construction, operation, or management
1 26 of an animal feeding operation, an animal feeding operation
1 27 structure, or aerobic structure, and to the storage, handling,
1 28 or application of manure or egg washwater.
1 29 3. A county shall participate in reviewing an application
1 30 to construct a confinement feeding operation structure to be
1 31 located in the county as provided in section 459.304.
1 32 Sec. 2. Section 455B.134, subsection 3, paragraph f,
1 33 subparagraph (1), unnumbered paragraphs 1 and 2, Code 2007,
1 34 are amended by striking the unnumbered paragraphs.
1 35 Sec. 3. Section 459.102, Code 2007, is amended by adding
2 1 the following new subsections:
2 2 NEW SUBSECTION. 8A. "Benefited object or location" means
2 3 any of the following:
2 4 a. A residence.
2 5 b. A commercial enterprise.
2 6 c. A bona fide religious institution.
2 7 d. An educational institution.
2 8 e. A public use area.
2 9 f. A qualified city.
2 10 g. A public thoroughfare.
2 11 h. A swine gestating-to=farrowing operation structure.
2 12 i. A planned residential housing development.
2 13 j. A tourism destination.
2 14 NEW SUBSECTION. 9A. "City" means the same as defined in

2 15 section 362.2.
2 16 NEW SUBSECTION. 20A. "Designated groundwater access
2 17 point" means a known sinkhole, or a cistern, abandoned well,
2 18 unplugged agricultural drainage well, agricultural drainage
2 19 well surface inlet, or drinking water well. However, a
2 20 designated groundwater access point does not include a terrace
2 21 tile inlet.

2 22 NEW SUBSECTION. 37A. "Planned residential housing
2 23 development" means a lot in which residences are planned to be
2 24 constructed according to a scaled drawing on a subdivision
2 25 plat that conforms with the applicable requirements of chapter
2 26 355, as prepared by a registered land surveyor and recorded
2 27 with a county recorder as provided in section 355.10.

2 28 NEW SUBSECTION. 40A. "Qualified city" means a city which
2 29 has adopted a plan, including but not limited to a
2 30 comprehensive plan, that provides for managed growth of the
2 31 city.

2 32 NEW SUBSECTION. 45A. "Swine confinement feeding
2 33 operation" means a confinement feeding operation in which only
2 34 swine are confined in a building which is part of the
2 35 confinement feeding operation.

3 1 NEW SUBSECTION. 46A. "Swine gestating-to=farrowing
3 2 operation" means an animal feeding operation maintaining at
3 3 least fifty sows and which is devoted to that portion of the
3 4 phases of the swine production cycle that may include breeding
3 5 but must include gestation and farrowing.

3 6 NEW SUBSECTION. 46B. "Swine gestating-to=farrowing
3 7 operation structure" means a structure which houses sows and
3 8 their litters of immature swine weighing fifteen pounds or
3 9 less, if the structure is associated with a swine
3 10 gestating-to=farrowing operation.

3 11 NEW SUBSECTION. 46C. "Tourism destination" means a
3 12 portion of real estate having unique archaeological, cultural,
3 13 historical, recreational, scenic, or scientific significance,
3 14 and that tends to attract the visiting public.

3 15 Sec. 4. Section 459.102, subsection 21, Code 2007, is
3 16 amended to read as follows:

3 17 21. "Designated wetland" means land designated as a
3 18 protected wetland by the ~~United States department of the~~
3 19 ~~interior or the department of natural resources~~, including but
3 20 not limited to a protected wetland as defined in section
3 21 456B.1, if the land is owned and managed by the ~~department,~~
3 22 ~~the federal government, or the department of natural resources~~
3 23 ~~a county or city.~~ However, a designated wetland does not
3 24 include land where an agricultural drainage well has been
3 25 plugged causing a temporary wetland or land within a drainage
3 26 district or levee district.

3 27 Sec. 5. Section 459.102, subsection 41, paragraphs a and
3 28 b, Code 2007, are amended to read as follows:

3 29 a. For a confinement feeding operation maintaining animals
3 30 other than swine as part of a ~~farrowing and gestating swine~~
3 31 ~~gestating-to=farrowing~~ operation or ~~swine farrow-to=finish~~
3 32 operation or cattle as part of a cattle operation, five
3 33 thousand three hundred thirty-three or more animal units.

3 34 b. For a confinement feeding operation maintaining swine
3 35 as part of a ~~farrowing and gestating swine~~
4 1 ~~gestating-to=farrowing~~ operation, two thousand five hundred or
4 2 more animal units.

4 3 Sec. 6. Section 459.201, subsection 1, paragraph b,
4 4 subparagraphs (1), (2), and (3), Code 2007, are amended to
4 5 read as follows:

4 6 (1) (a) One thousand two hundred fifty feet for a
4 7 confinement feeding operation having an animal unit capacity
4 8 of less than three thousand animal units for animals other
4 9 than swine maintained as part of a swine ~~farrowing and~~
4 10 ~~gestating gestating-to=farrowing~~ operation or ~~swine~~
4 11 farrow-to=finish operation, or cattle maintained as part of a
4 12 cattle operation.

4 13 (b) One thousand two hundred fifty feet for a confinement
4 14 feeding operation having an animal unit capacity of less than
4 15 one thousand two hundred fifty animal units for swine
4 16 maintained as part of a ~~farrowing and gestating swine~~
4 17 ~~gestating-to=farrowing~~ operation, less than two thousand seven
4 18 hundred animal units for swine maintained as part of a ~~swine~~
4 19 farrow-to=finish operation, or less than four thousand animal
4 20 units for cattle maintained as part of a cattle operation.

4 21 (2) (a) One thousand five hundred feet for a confinement
4 22 feeding operation having an animal unit capacity of three
4 23 thousand or more but less than five thousand animal units for
4 24 animals other than swine maintained as part of a swine
4 25 ~~farrowing and gestating gestating-to=farrowing~~ operation or

4 26 swine farrow-to=finish operation, or cattle maintained as part
 4 27 of a cattle operation.
 4 28 (b) One thousand five hundred feet for a confinement
 4 29 feeding operation having an animal unit capacity of one
 4 30 thousand two hundred fifty or more but less than two thousand
 4 31 animal units for swine maintained as part of a swine ~~farrowing~~
~~4 32 and gestating~~ ~~gestating-to=farrowing~~ operation, two thousand
 4 33 seven hundred or more but less than five thousand four hundred
 4 34 animal units for swine maintained as part of a swine
 4 35 farrow-to=finish operation, or four thousand or more but less
 5 1 than six thousand five hundred animal units for cattle
 5 2 maintained as part of a cattle operation.

5 3 (3) (a) Two thousand five hundred feet for a confinement
 5 4 feeding operation having an animal unit capacity of five
 5 5 thousand or more animal units for animals other than swine
 5 6 maintained as part of a swine ~~farrowing and gestating~~
 5 7 ~~gestating-to=farrowing~~ operation or swine farrow-to=finish
 5 8 operation, or cattle maintained as part of a cattle operation.

5 9 (b) Two thousand five hundred feet for a confinement
 5 10 feeding operation having an animal unit capacity of two
 5 11 thousand or more animal units for swine maintained as part of
 5 12 a swine ~~farrowing and gestating~~ ~~gestating-to=farrowing~~
 5 13 operation, five thousand four hundred animal units or more for
 5 14 swine maintained as part of a swine farrow-to=finish
 5 15 operation, or six thousand five hundred or more animal units
 5 16 for cattle maintained as part of a cattle operation.

5 17 Sec. 7. Section 459.201, Code 2007, is amended by adding
 5 18 the following new subsection:

5 19 NEW SUBSECTION. 4A. The department shall adopt rules
 5 20 designating tourism destinations, including the boundaries of
 5 21 tourism destinations. The department shall adopt the rules in
 5 22 cooperation with the department of economic development and
 5 23 the department of cultural affairs.

5 24 Sec. 8. Section 459.201, subsection 5, Code 2007, is
 5 25 amended to read as follows:

5 26 5. All distances between ~~locations of objects a benefited~~
 5 27 ~~object or location and a confinement feeding operation~~
 5 28 ~~structure or the application of manure as provided in this~~

5 29 ~~part subchapter~~ shall be measured in feet from their closest
 5 30 points, as provided by rules adopted by the department.

5 31 ~~a. However, a A distance between a confinement feeding~~
 5 32 ~~operation structure and a public thoroughfare and a~~

5 33 ~~confinement feeding operation structure~~ shall be measured from
 5 34 the portion of the right-of-way which is closest to the
 5 35 confinement feeding operation structure.

6 1 ~~b. A distance between a confinement feeding operation~~
 6 2 ~~structure and a qualified city shall be measured from its city~~
 6 3 ~~limits.~~

6 4 Sec. 9. Section 459.202, Code 2007, is amended by striking
 6 5 the section and inserting in lieu thereof the following:

6 6 459.202 CONFINEMENT FEEDING OPERATIONS STRUCTURES ==
 6 7 STANDARD MINIMUM SEPARATION DISTANCES.

6 8 This section applies to confinement feeding operation
 6 9 structures which are constructed on or after the effective
 6 10 date of this section of this Act, to the expansion of those
 6 11 confinement feeding operation structures which are constructed
 6 12 on or after the effective date of this section of this Act,
 6 13 and to the expansion of those confinement feeding operation
 6 14 structures on and after the effective date of this section of
 6 15 this Act when those confinement feeding operation structures
 6 16 were constructed prior to the effective date of this section
 6 17 of this Act.

6 18 1. Except as provided in this section, section 459.202A,
 6 19 and section 459.205, the following table represents the
 6 20 standard minimum separation distance measured in feet required
 6 21 between a confinement feeding operation structure and a
 6 22 benefited object or location:

	For a confinement feeding operation having an animal unit capacity of less than 500 animal units	For a confinement feeding operation having an animal unit capacity of 500 or more but less than 3,000 animal units	For a confinement feeding operation having an animal unit capacity of 3,000 or more animal units
6 23			
6 24			
6 25			
6 26			
6 27			
6 28			
6 29			
6 30			
6 31			
6 32			
6 33	<u>Type of structure</u>	<u>units</u>	<u>units</u>
6 34	Confinement feeding		
6 35	operation		
7 1	structure	1,320	2,640
			5,280

7 2 2. a. A confinement feeding operation structure shall not
7 3 be constructed or expanded within the following minimum
7 4 separation distances from a tourism destination:
7 5 (1) For a tourism destination which is not a high-quality
7 6 water resource, 5,280 feet.
7 7 (2) For a tourism destination which is a high-quality
7 8 water resource, 10,560 feet. However, this subparagraph shall
7 9 not apply to a high-quality water resource which is a water
7 10 course principally used for trout fishing as determined by the
7 11 department.

7 12 b. A confinement feeding operation shall not be
7 13 constructed or expanded within the following minimum
7 14 separation distance from a qualified city which is identified
7 15 as an Iowa great place as provided in section 303.3C, 10,560
7 16 feet.

7 17 c. A confinement feeding operation structure shall not be
7 18 constructed or expanded within the following minimum
7 19 separation distance from a "public thoroughfare", 100 feet.

7 20 Sec. 10. NEW SECTION. 459.202A SWINE CONFINEMENT FEEDING
7 21 OPERATION STRUCTURES == ALTERNATIVE MINIMUM SEPARATION
7 22 DISTANCE REQUIREMENTS.

7 23 This section provides for alternative minimum separation
7 24 distance requirements which apply to the construction or
7 25 expansion of a confinement feeding operation structure which
7 26 is part of a swine confinement feeding operation.

7 27 1. Except as provided in section 459.205, the alternative
7 28 minimum separation distance requirements shall apply in lieu
7 29 of the standard minimum separation distance requirements as
7 30 otherwise provided in section 459.202, if the construction or
7 31 expansion of the confinement feeding operation structure is
7 32 approved by the department pursuant to section 459.303 after
7 33 the department reviews a community-based odor assessment
7 34 report as provided in this section. However, this section
7 35 does not require that a person construct a confinement feeding
8 1 operation structure under this section, if the person elects
8 2 to comply with the standard minimum separation distance
8 3 requirements otherwise provided in section 459.202.

8 4 2. A person proposing to construct or expand a confinement
8 5 feeding operation structure may apply to the university in
8 6 order to develop the community-based odor assessment plan.
8 7 Iowa state university may assess a fee to develop the plan.
8 8 The amount of the fee shall not be more than five hundred
8 9 dollars. Iowa state university's collection of the fees shall
8 10 be treated as repayment receipts as defined in section 8.2.

8 11 3. Iowa state university shall establish a community-based
8 12 odor assessment process that utilizes computer modeling to
8 13 analyze the statistical probability of dispersions of odor
8 14 emitted from a confinement feeding operation structure
8 15 measured within a distance which is at least equal to the
8 16 standard minimum separation distances required in section
8 17 459.202. In conducting the community-based odor assessment
8 18 process, the university shall do all of the following:
8 19 a. Establish one or more general odor thresholds for
8 20 detectable dispersions of odor.
8 21 b. Map the statistical probability that odor emitted from
8 22 a particular confinement feeding operation structure as
8 23 proposed to be constructed or expanded will be dispersed to a
8 24 benefited object or location.

8 25 4. a. At the conclusion of the community-based odor
8 26 assessment process as provided in this section, Iowa state
8 27 university shall issue a community-based odor assessment
8 28 report which identifies each benefited object or location
8 29 where the general odor thresholds will be exceeded. The
8 30 report shall identify at least all of the following:
8 31 (1) The type of manure storage structure and the
8 32 orientation of a confinement feeding operation structure
8 33 proposed to be constructed or expanded.
8 34 (2) Any proposed management practices for operating the
8 35 confinement feeding operation, which may include the
9 1 installation, use, and scheduled maintenance and replacement
9 2 of items, mechanisms, and infrastructure to reduce odor
9 3 emitted from the confinement feeding operation.
9 4 b. Iowa state university shall provide the community-based
9 5 odor assessment report to the applicant who may submit it to
9 6 the department of natural resources as part of an application
9 7 to construct or expand a confinement feeding operation
9 8 structure as provided in section 459.303.

9 9 Sec. 11. Section 459.204, Code 2007, is amended to read as
9 10 follows:
9 11 459.204 ~~LIQUID~~ MANURE APPLICATION == SEPARATION DISTANCE.
9 12 Except as provided in section 459.205, ~~a~~ this section

9 13 applies to the application of manure from an animal feeding
9 14 operation.

9 15 1. A person shall not apply liquid manure from a
9 16 confinement feeding operation on land located within seven
9 17 hundred fifty feet from a residence not owned by the
9 18 titleholder of the land, a commercial enterprise, a bona fide
9 19 religious institution, an educational institution, or a public
9 20 use area within the following minimum separation distances
9 21 from a benefited object or location:

9 22 a. For dry manure, four hundred feet.
9 23 b. For liquid manure, seven hundred fifty feet.
9 24 2. Liquid manure shall be injected into the soil or
9 25 incorporated within the soil during the same day.

9 26 Sec. 12. Section 459.205, Code 2007, is amended to read as
9 27 follows:

9 28 459.205 SEPARATION DISTANCE REQUIREMENTS -- EXEMPTIONS.

9 29 1. A For the construction or expansion of a confinement
9 30 feeding operation structure, a standard minimum separation
9 31 distance requirement provided in this subchapter section
9 32 459.202 or an alternative minimum separation distance
9 33 requirement provided in section 459.202A shall not apply to
9 34 any of the following:

9 35 1. A confinement feeding operation structure, if the
10 1 structure is part of a confinement feeding operation which
10 2 qualifies as a small animal feeding operation. However, this
10 3 subsection shall not apply if the confinement feeding
10 4 operation structure is an unformed manure storage structure.

10 5 a. A confinement feeding operation structure which was
10 6 constructed or expanded on a date which complied with the
10 7 minimum separation distance requirement as provided in state
10 8 law, including chapter 455B or this chapter. However, any
10 9 construction or expansion of a confinement feeding operation
10 10 structure after the effective date of this section of this Act
10 11 shall comply with the requirements of this subchapter.

10 12 2. a. b. A confinement feeding operation structure which
10 13 is constructed or expanded, if the titleholder of the land
10 14 benefiting from the distance separation requirement where the
10 15 benefited object or location is situated executes a written
10 16 waiver with the titleholder of the land where the structure is
10 17 located situated. However, all of the following shall apply:

10 18 (1) (a) If a confinement feeding operation structure is
10 19 constructed or expanded within the separation distance
10 20 required between a confinement feeding operation structure and
10 21 a public thoroughfare as required pursuant to section 459.202,
10 22 the state or a political subdivision constructing or
10 23 maintaining the public thoroughfare benefiting from the
10 24 distance separation requirement may execute a written waiver
10 25 with the titleholder of the land where the confinement feeding
10 26 operation structure is located.

10 27 (b) If the confinement feeding operation structure is
10 28 constructed or expanded within the separation distance
10 29 required between a confinement feeding operation structure and
10 30 a city, the city may execute a written waiver in a manner
10 31 provided for by the city.

10 32 (c) If a confinement feeding operation structure is
10 33 constructed or expanded within the separation distance
10 34 required between a confinement feeding operation structure and
10 35 a lot of a planned residential housing development, the person
11 1 who is the titleholder of the lot and who resides on the lot
11 2 may execute a written waiver with the titleholder of the land
11 3 where the confinement feeding operation structure is located.

11 4 (2) The confinement feeding operation structure shall be
11 5 constructed or expanded under such terms and conditions that
11 6 the parties negotiate.

11 7 b. (3) A written waiver under this subsection becomes
11 8 effective only upon the recording of the waiver in the office
11 9 of the recorder of deeds of the county in which the benefited
11 10 land is located. The filed waiver shall preclude enforcement
11 11 by the state of section 459.202 or 459.202A as it relates to a
11 12 distance requirement between the confinement feeding operation
11 13 structure and the benefited object or location or object
11 14 benefiting from the separation distance requirement.

11 15 3. c. A confinement feeding operation structure which is
11 16 constructed or expanded within any distance from a residence,
11 17 educational institution, commercial enterprise, bona fide
11 18 religious institution, city, or public use area benefited
11 19 object or location, if any of the following applies:

11 20 (1) (a) A residence, educational institution, commercial
11 21 enterprise, or bona fide religious institution, public
11 22 thoroughfare, or swine gestating to farrowing operation
11 23 structure was constructed or expanded, or after the date that

11 24 the confinement feeding operation was established.
11 25 (b) The boundaries of the city, ~~or~~ public use area, ~~or~~
11 26 tourism destination were established or expanded, after the
11 27 date that the confinement feeding operation was established.

11 28 (2) The date the confinement feeding operation was
11 29 established is the date on which the confinement feeding
11 30 operation commenced operating. A change in ownership or
11 31 expansion of the confinement feeding operation shall not
11 32 change the established date of operation.

11 33 d. The confinement feeding operation includes a
11 34 confinement feeding operation structure that is expanded by
11 35 replacing one or more unformed manure storage structures with
12 1 one or more formed manure storage structures, if all of the
12 2 following apply:

12 3 (1) The animal weight capacity or animal unit capacity,
12 4 whichever is applicable, is not increased for that portion of
12 5 the confinement feeding operation that utilizes all
12 6 replacement formed manure storage structures.

12 7 (2) Use of each replaced unformed manure storage structure
12 8 is discontinued within one year after the construction of the
12 9 replacement formed manure storage structure.

12 10 (3) The capacity of all replacement formed manure storage
12 11 structures does not exceed the amount required to store manure
12 12 produced by that portion of the confinement feeding operation
12 13 utilizing the formed manure storage structures during any
12 14 fourteen-month period.

12 15 (4) No portion of the replacement formed manure storage
12 16 structure is closer to a benefited object or location for
12 17 which separation is required under section 459.202 than any
12 18 other confinement feeding operation structure which is part of
12 19 the operation.

12 20 4. ~~2.~~ For the application of liquid manure on land
12 21 within a separation distance required between the applied
12 22 manure and an object or location for which separation is
12 23 required under originating from a confinement feeding
12 24 operation, a requirement provided in section 459.204, shall
12 25 not apply if any of the following apply:

12 26 a. The liquid manure is injected into the soil or
12 27 incorporated within the soil not later than twenty-four hours
12 28 from the original application, as provided by rules adopted by
12 29 the commission.

12 30 b. ~~The~~ the titleholder of the land benefiting from the
12 31 separation distance requirement where the benefited object or
12 32 location is situated executes a written waiver with the
12 33 titleholder of the land where the manure is applied.

12 34 c. The liquid manure originates from a small animal
12 35 feeding operation.

13 1 d. The liquid manure is applied by spray irrigation
13 2 equipment using a center pivot mechanism as provided by rules
13 3 adopted by the department, if all of the following apply:

13 4 (1) The spray irrigation equipment uses hoses which
13 5 discharge the liquid manure in a downward direction at a
13 6 height of not more than nine feet above the soil.

13 7 (2) The spray irrigation equipment disperses manure
13 8 through an orifice at a maximum pressure of not more than
13 9 twenty-five pounds per square inch.

13 10 (3) The liquid manure is not applied within two hundred
13 11 fifty feet from a residence not owned by the titleholder of
13 12 the land, a commercial enterprise, a bona fide religious
13 13 institution, an educational institution, or a public use area.

13 14 5. The distance between a confinement feeding operation
13 15 structure and a cemetery, if any of the following applies:

13 16 a. The confinement feeding operation structure was
13 17 constructed or expanded prior to January 1, 1999.

13 18 b. The construction or expansion of the confinement
13 19 feeding operation structure began prior to January 1, 1999.

13 20 Sec. 13. Section 459.207, subsection 1, paragraph b, Code
13 21 2007, is amended to read as follows:

13 22 b. "Separated location" means ~~a~~ a benefited object or
13 23 location or object from which a separation distance is
13 24 required under section 459.202 or 459.204, other than a public
13 25 thoroughfare.

13 26 Sec. 14. Section 459.303, subsection 1, paragraphs a and
13 27 b, Code 2007, are amended to read as follows:

13 28 a. Except as provided in paragraph "b", a person must
13 29 obtain ~~be~~ issued a permit to construct any of the following:

13 30 (1) A confinement feeding operation structure if after
13 31 construction its confinement feeding operation would have an
13 32 animal unit capacity of at least one thousand animal units.

13 33 (2) The confinement feeding operation structure is an
13 34 unformed manure storage structure.

13 35 b. A person is not required to obtain a permit to
14 1 construct a confinement feeding operation structure if any of
14 2 the following apply:

14 3 (1) The confinement feeding operation structure, if
14 4 constructed, would be part of a small animal feeding
14 5 operation. However, the person must ~~obtain~~ be issued a permit
14 6 under this section if any of the following apply:

14 7 (a) The confinement feeding operation structure is an

14 8 unformed manure storage structure.

14 9 (b) The confinement feeding operation structure may be
14 10 constructed within the standard minimum separation distance
14 11 requirement as provided in section 459.202, because it
14 12 complies with an alternative minimum separation distance
14 13 requirement as provided in section 459.202A.

14 14 (2) The confinement feeding operation structure is part of
14 15 a confinement feeding operation which is owned by a research
14 16 college conducting research activities as provided in section
14 17 459.318.

14 18 Sec. 15. Section 459.303, subsections 2 and 3, Code 2007,
14 19 are amended to read as follows:

14 20 2. The department shall issue a construction permit upon
14 21 ~~the department's~~ approval of an application. The department
14 22 shall approve the application if the application is submitted
14 23 to the county board of supervisors in the county where the
14 24 proposed confinement feeding operation structure is to be
14 25 located as required pursuant to section 459.304, and the
14 26 application meets the requirements of this chapter. ~~If a~~
14 27 ~~county submits an approved recommendation pursuant to a~~
14 28 ~~construction evaluation resolution filed with the department,~~
14 29 ~~the application must also achieve which may include a~~
14 30 satisfactory rating produced by the master matrix used by the
14 31 board or department under section 459.304. The department
14 32 shall approve the application which meets the requirements of
14 33 this chapter regardless of whether the applicant is required
14 34 to be issued a construction permit.

14 35 3. The department shall not approve an application for a
15 1 construction permit unless the applicant submits all of the
15 2 following to the department:

15 3 a. A construction permit application and construction
15 4 permit application fee as provided in section 459.400. An
15 5 application to construct a confinement feeding operation
15 6 structure in compliance with an alternative minimum separation
15 7 distance requirement from a benefited object or location must
15 8 include a community-based odor assessment report issued by
15 9 Iowa state university as provided in section 459.202A.

15 10 b. A manure management plan as provided in section 459.312
15 11 and manure management plan filing fee as provided in section
15 12 459.400.

15 13 ~~a. c.~~ An indemnity fee as provided in section 459.502
15 14 that the department shall deposit into the manure storage
15 15 indemnity fund created in section 459.501.

15 16 ~~b. A manure management plan as provided in section 459.312~~
15 17 ~~and manure management plan filing fee as provided in section~~
15 18 ~~459.400.~~

15 19 ~~c. A construction permit application fee as provided in~~
15 20 ~~section 459.400.~~

15 21 Sec. 16. Section 459.303, Code 2007, is amended by adding
15 22 the following new subsection:

15 23 NEW SUBSECTION. 3A. If the applicant has submitted a
15 24 community-based odor assessment report provided by Iowa state
15 25 university pursuant to section 459.202A, the department shall
15 26 review the report only to confirm that the general odor
15 27 thresholds as measured from each benefited object or location
15 28 within the standard minimum separation distance requirements
15 29 provided in section 459.202 will not be met by the proposed
15 30 confinement feeding operation structure.

15 31 a. Except as provided in paragraph "b", the department
15 32 shall not disapprove an application because the confinement
15 33 feeding operation structure is constructed or expanded within
15 34 the minimum separation distance requirements.

15 35 b. The department may disapprove an application to
16 1 construct a confinement feeding operation structure which is
16 2 constructed or expanded within the minimum separation distance
16 3 requirements if it determines that there is a preponderance of
16 4 evidence that the construction would be detrimental to persons
16 5 at the benefited object or location.

16 6 Sec. 17. Section 459.303, subsection 5, paragraph a,
16 7 subparagraphs (1) and (2), Code 2007, are amended to read as
16 8 follows:

16 9 (1) Three thousand animal units for animals other than
16 10 swine maintained as part of a swine ~~farrowing and gestating~~

16 11 ~~gestating=to=farrowing~~ operation or ~~swine farrow=to=finish~~
16 12 operation or cattle maintained as part of a cattle operation.
16 13 (2) One thousand two hundred fifty animal units for swine
16 14 maintained as part of a swine ~~farrowing and gestating~~
16 15 ~~gestating=to=farrowing~~ operation.

16 16 Sec. 18. Section 459.304, subsection 1, Code 2007, is
16 17 amended to read as follows:

16 18 A county board of supervisors shall review an application
16 19 to construct, including expand, a confinement feeding
16 20 operation structure proposed to be located in the county and
16 21 requiring a permit issued by the department pursuant to
16 22 section 459.303 as follows:

16 23 1. a. The department shall deliver a copy or require the
16 24 applicant to deliver a copy of the application ~~for a permit to~~
16 25 ~~construct, including expanding, a confinement feeding~~
16 26 ~~operation structure pursuant to section 459.303, including~~
16 27 supporting documents, to the county board of supervisors ~~in~~
16 28 ~~the county where the confinement feeding operation structure~~
16 29 ~~subject to the permit is proposed to be constructed.~~

16 30 b. The county auditor or ~~other~~ another county officer
16 31 designated by the county board of supervisors may accept the
16 32 application on behalf of the board. If the department
16 33 requires the applicant to deliver a copy of the application to
16 34 the county board of supervisors, the board shall notify the
16 35 department that the board has received the application

17 1 according to procedures required by the department.
17 2 c. A county board of supervisors may assess an applicant a
17 3 construction permit application fee of not more than one
17 4 hundred dollars which shall be deposited in the general fund
17 5 of the county.

17 6 Sec. 19. Section 459.304, subsection 2, unnumbered
17 7 paragraph 1, Code 2007, is amended to read as follows:

17 8 ~~Regardless of whether the county board of supervisors has~~
17 9 ~~adopted a construction evaluation resolution, the county may~~
17 10 The county board of supervisors shall provide county comment
17 11 to the department on a construction permit for the approval or
17 12 disapproval of an application for a confinement feeding
17 13 operation structure.

17 14 Sec. 20. Section 459.304, subsection 2, paragraph b,
17 15 unnumbered paragraph 1, Code 2007, is amended to read as
17 16 follows:

17 17 The board ~~may hold~~ shall prepare its county comment by
17 18 holding a public hearing to receive public comments of the
17 19 public regarding the application. The county board of
17 20 supervisors may submit its own comments by the board regarding
17 21 the application and shall submit comments of the public to the
17 22 department as provided in this section, including but not
17 23 limited to all of the following:

17 24 Sec. 21. Section 459.304, subsection 2, paragraph b,
17 25 subparagraph (1), Code 2007, is amended to read as follows:
17 26 (1) The existence of an object or location not included in
17 27 the application that benefits from a separation distance
17 28 requirement as provided in section 459.202, 459.202A, or
17 29 459.204, or 459.310.

17 30 Sec. 22. Section 459.304, subsections 3 through 8, Code
17 31 2007, are amended to read as follows:

17 32 3. A county board of supervisors ~~may adopt a construction~~
17 33 ~~evaluation resolution relating to the construction of a~~
17 34 ~~confinement feeding operation structure. The board must~~
17 35 ~~submit such resolution to the department for filing. If the~~
18 1 ~~board has submitted such resolution to the department, the~~
18 2 ~~board may~~ shall evaluate the construction permit an
18 3 application and submit ~~an adopted a timely~~ recommendation to
18 4 the department to approve or disapprove ~~a construction permit~~
18 5 the application as provided in this subsection. The board
18 6 must make its decision to recommend approval or disapproval of
18 7 the ~~permit~~ application as provided in this subsection.

18 8 a. For the expansion of a confinement feeding operation
18 9 that includes a confinement feeding operation structure
18 10 constructed prior to April 1, 2002, the board shall not
18 11 evaluate ~~a construction permit~~ the application for the
18 12 construction or expansion of a confinement feeding operation
18 13 structure if after the expansion of the confinement feeding
18 14 operation, its animal unit capacity is one thousand six
18 15 hundred sixty-six animal units or less.

18 16 b. The board ~~must~~ shall conduct an evaluation of the
18 17 application using the master matrix as provided in section
18 18 459.305. The board's recommendation may be based on the
18 19 results produced by using the master matrix or and may be
18 20 based on comments under county comment as provided in this
18 21 section regardless of the results of the master matrix.

18 22 c. In completing the master matrix, the board shall not
18 23 score criteria on a selective basis. The board ~~must~~ shall
18 24 score all criteria which is part of the master matrix
18 25 according to the terms and conditions relating to construction
18 26 as specified in the application or commitments for manure
18 27 management that are to be incorporated into a manure
18 28 management plan as provided in section 459.312.

18 29 d. The board's ~~adopted~~ recommendation to the department
18 30 shall include the specific reasons and any supporting
18 31 documentation for the decision to recommend approval or
18 32 disapproval of the application.

18 33 4. The department must receive the county board of
18 34 ~~supervisor's comments or supervisors' recommendation,~~
18 35 ~~including county comment and the county board of supervisors'~~
19 1 ~~evaluation for approval or disapproval of an application for a~~
19 2 ~~construction permit not later than thirty sixty~~ days following
19 3 the applicant's delivery of the application to the department.
19 4 Regardless of whether the department receives ~~comments or an~~
19 5 ~~evaluation a timely submitted recommendation~~ by a county board
19 6 of supervisors, the department must approve or disapprove ~~an~~
19 7 ~~the~~ application for a construction permit within ~~sixty ninety~~
19 8 days following the applicant's delivery of the application to
19 9 the department. However, the applicant may deliver a notice
19 10 requesting a continuance. Upon receipt of a notice, the time
19 11 required for the county or department to act upon the
19 12 application shall be suspended for the period provided in the
19 13 notice, but for not more than thirty days after the
19 14 department's receipt of the notice. The applicant may submit
19 15 more than one notice. However, the department may provide
19 16 that an application is terminated if no action is required by
19 17 the department for one year following delivery of the
19 18 application to the board. The department may also provide for
19 19 a continuance when it considers the application. The
19 20 department shall provide notice to the applicant and the board
19 21 of the continuance. The time required for the department to
19 22 act upon the application shall be suspended for the period
19 23 provided in the notice, but for not more than thirty days.
19 24 However, the department shall not provide for more than one
19 25 continuance.

19 26 5. a. The department shall approve an application for a
19 27 ~~construction permit~~ if the county board of supervisors which
19 28 ~~has filed a county construction evaluation resolution timely~~
19 29 ~~submits an adopted a~~ recommendation to approve the
19 30 ~~construction permit~~ application which may shall at least be
19 31 based on a satisfactory rating produced by the master matrix
19 32 to the department and the department determines that the
19 33 application meets the requirements of this chapter without
19 34 ~~conducting an independent evaluation of the application using~~
19 35 ~~the master matrix.~~ The department shall disapprove an
20 1 application that does not ~~satisfy the meet those~~ requirements
20 2 ~~of this chapter~~ regardless of the ~~adopted~~ recommendation of
20 3 the board. The department shall consider ~~any timely filed~~
20 4 ~~comments made~~ county comment timely submitted by the board as
20 5 provided in this section to determine if an application meets
20 6 ~~the those~~ requirements of this chapter.

20 7 b. If the board submits to the department ~~an adopted a~~
20 8 recommendation to disapprove an application for a construction
20 9 ~~permit~~ that is based on ~~a an~~ unsatisfactory rating produced by
20 10 using the master matrix, the department shall first determine
20 11 if the application meets the requirements of this chapter ~~as~~
20 12 ~~provided in section 459.103 without conducting an independent~~
20 13 ~~evaluation of the application using the master matrix.~~ The
20 14 department shall disapprove an application that does not
20 15 ~~satisfy the meet those~~ requirements of this chapter regardless
20 16 of any result produced by using the master matrix. If the
20 17 application meets ~~the those~~ requirements of this chapter, the
20 18 department shall conduct an independent evaluation of the
20 19 application by using the master matrix. The department shall
20 20 approve the application if it ~~achieves~~ produces a satisfactory
20 21 rating according to the department's independent evaluation.
20 22 The department shall disapprove the application if it produces
20 23 an unsatisfactory rating regardless of whether the application
20 24 otherwise satisfies the requirements of this chapter. The
20 25 department shall consider ~~any timely filed comments made~~
20 26 county comment timely submitted by the board as provided in
20 27 this section to determine if an application meets ~~the those~~
20 28 requirements of this chapter.

20 29 c. If the county board of supervisors does not timely
20 30 submit a ~~construction evaluation resolution to the department,~~
20 31 ~~fails to submit an adopted recommendation, submits only~~
20 32 ~~comments, or fails to submit comments to approve or disapprove~~

~~20 33 an application based on a rating produced by using the master
20 34 matrix, the department shall approve the application if the
20 35 application meets the requirements of this chapter as provided
21 1 in section 459.103 board shall be deemed to have submitted to
21 2 the department a recommendation to disapprove an application
21 3 that is based on an unsatisfactory rating produced by using
21 4 the master matrix as provided in this section.~~

21 5 6. The department may conduct an inspection of the site on
21 6 which the construction is proposed after providing at a
21 7 minimum twenty-four hours' notice or upon receiving consent
21 8 from the construction permit applicant. The county board of
21 9 supervisors ~~that has adopted a construction evaluation
21 10 resolution~~ may designate a county employee to accompany a
21 11 departmental official during the site inspection. The county
21 12 employee shall have the same right to access to the site's
21 13 real estate as the departmental official conducting the
21 14 inspection during the period that the county employee
21 15 accompanies the departmental official. The departmental
21 16 official and the county employee shall comply with standard
21 17 biosecurity requirements customarily required by the
21 18 confinement feeding operation that are necessary in order to
21 19 control the spread of disease among an animal population.

21 20 7. Upon written request by a county resident, the county
21 21 board of supervisors shall forward to the county resident a
21 22 copy of the county comment, the board's adopted
21 23 ~~recommendation, any county comments to the department on the
21 24 permit application,~~ and the department's responses, as
21 25 provided in chapter 22.

21 26 8. a. The department shall deliver a notice to the
21 27 applicant within three days of the department's decision to
21 28 approve or disapprove an application ~~for a construction
21 29 permit. If the board of supervisors has submitted an adopted
21 30 recommendation to the~~ The department for the approval or
21 31 disapproval of a construction permit application as provided
21 32 in this section, the department shall notify the county board
21 33 of supervisors of the department's decision to approve or
21 34 disapprove the application at the same time.

21 35 b. (1) The applicant may contest the department's
22 1 decision by requesting a hearing and may elect to have the
22 2 hearing conducted before an administrative law judge pursuant
22 3 to chapter 17A or before the commission. If the applicant and
22 4 a board ~~of supervisors~~ are both contesting the department's
22 5 decision, the applicant may request that the commission
22 6 conduct the hearing on a consolidated basis. The commission
22 7 shall hear the case according to procedures established by
22 8 rules adopted by the department. The commission may hear the
22 9 case as a contested case proceeding under chapter 17A. The
22 10 department, upon petition by the applicant, shall deliver to
22 11 the administrative law judge or the commission a copy of the
22 12 ~~board of supervisors' county comment, the board's
22 13 recommendation together with the results produced by its using
22 14 the master matrix and any supporting data or documents~~
22 15 ~~submitted with the results, comments submitted by the board to
22 16 the department,~~ and the department's independent evaluation of
22 17 the application including the results produced by its matrix
22 18 and any supporting data or documents. If the commission hears
22 19 the case, its decision shall be the department's final agency
22 20 action. The commission shall render a decision within
22 21 thirty-five days from the date that the applicant or board
22 22 files a demand for a hearing.

22 23 (2) A ~~county board of supervisors that has submitted an
22 24 adopted recommendation to the department~~ may contest the
22 25 department's decision by requesting a hearing before the
22 26 commission. The commission shall hear the case according to
22 27 procedures established by rules adopted by the department.
22 28 The commission may hear the case as a contested case
22 29 proceeding under chapter 17A. A party in the case may elect
22 30 to have the hearing conducted before an administrative law
22 31 judge. The board may request that the department submit a
22 32 copy of the department's independent evaluation of the
22 33 application including the results produced by its matrix and
22 34 any supporting data or documents. The decision by the
22 35 commission shall be the department's final agency action. The
23 1 commission shall render a decision within thirty-five days
23 2 from the date that the board initiates the proceeding.

23 3 c. Judicial review of ~~the~~ a decision of by either the
23 4 department or the commission may be sought in accordance with
23 5 the terms of chapter 17A.

23 6 Sec. 23. Section 459.305, subsection 1, paragraph b, Code
23 7 2007, is amended to read as follows:

23 8 b. The master matrix shall be designed to produce

23 9 quantifiable results based on the scoring of all objective
23 10 criteria according to an established value scale. The
23 11 applicant shall provide an adequate response necessary to
23 12 score each criterion. Each criterion shall be assigned points
23 13 corresponding to the value scale. The master matrix shall
23 14 consider risks and factors mitigating risks if the confinement
23 15 feeding operation structure were constructed according to the
23 16 application.

23 17 Sec. 24. Section 459.305, subsection 2, unnumbered
23 18 paragraph 1, Code 2007, is amended to read as follows:

23 19 ~~The master matrix shall include criteria valuing~~
23 20 ~~environmental and community impacts for use by county boards~~
23 21 ~~of supervisors and the department three categories which~~
23 22 ~~measure impacts upon air quality, water quality, and~~
23 23 ~~communities.~~ The master matrix shall include definite point
23 24 selections for all criteria provided in the master matrix.
23 25 The master matrix shall provide only for scoring of positive
23 26 points and shall not provide for deduction of points, except
23 27 as provided in this section. If an applicant fails to provide

23 28 an adequate response necessary to score the criterion, the
23 29 point value for the criterion shall be deducted from the
23 30 relevant category score and overall score. The master matrix
23 31 shall provide for a minimum threshold score for each of the
23 32 categories and a minimum threshold overall score required to
23 33 receive a satisfactory rating. The master matrix shall be
23 34 structured to ensure that it feasibly ~~provides for~~ produces a
23 35 satisfactory rating. The master matrix shall include types of

24 1 criteria developed by Iowa state university which are part of
24 2 its community-based odor assessment process as provided in
24 3 section 459.202A. Criteria valuing environmental impacts
24 4 shall account for animal agriculture's relationship to quality
24 5 of the environment and the conservation of natural resources,
24 6 and may include factors that refer to all of the following:

24 7 Sec. 25. Section 459.308, subsection 3, Code 2007, is
24 8 amended to read as follows:

24 9 3. a. A person shall not construct an unformed manure
24 10 storage structure on karst terrain or on an area that drains
24 11 into a known sinkhole. ~~However, a person may construct an~~
24 12 ~~unformed manure storage structure, if there is a~~
24 13 ~~twenty-five-foot vertical separation distance between the~~
24 14 ~~bottom of the unformed manure storage structure and underlying~~
24 15 ~~limestone, dolomite, or other soluble rock.~~

24 16 b. A person shall not construct an earthen manure storage
24 17 basin which is part of a swine confinement feeding operation.

24 18 Sec. 26. Section 459.310, subsection 1, paragraphs a, b,
24 19 and c, Code 2007, are amended to read as follows:

24 20 a. A confinement feeding operation structure shall not be
24 21 constructed closer to a designated groundwater access point
24 22 than the standard minimum separation distance requirement as
24 23 follows:

24 24 (1) ~~five hundred feet away from the~~ For the surface intake
24 25 inlet of an agricultural drainage well, five hundred feet.

24 26 (2) ~~A confinement feeding operation structure shall not be~~
24 27 ~~constructed closer than one thousand feet from~~ For a wellhead,
24 28 cistern of an agricultural drainage well, or known sinkhole,
24 29 one thousand three hundred twenty feet. ~~However, the~~

24 30 ~~department may adopt rules requiring an increased separation~~
24 31 ~~distance under this paragraph in order to protect the~~
24 32 ~~integrity of a water of the state.~~ The increased separation
24 33 distance shall not be more than two thousand feet. If the
24 34 department exercises its discretion to increase the separation
24 35 distance requirement, the department shall not approve an
25 1 application for the construction of a confinement feeding
25 2 operation structure within that separation distance as
25 3 provided in section 459.303.

25 4 b. A confinement feeding operation structure shall not be
25 5 constructed ~~if the confinement feeding operation structure as~~
25 6 ~~constructed is closer to a water source or designated wetland~~
25 7 ~~than any of the following~~ the standard minimum separation
25 8 distance requirement as follows:

25 9 (1) ~~Five hundred feet away from~~ For a water source other
25 10 than a major water source, five hundred feet.

25 11 (2) ~~One thousand feet away from~~ For a major water source,
25 12 one thousand three hundred twenty feet.

25 13 (3) ~~Two thousand five hundred feet away from~~ For a
25 14 designated wetland, two thousand six hundred forty feet.

25 15 c. (1) A water source, other than a major water source,
25 16 shall not be constructed, expanded, or diverted, if the water
25 17 source as constructed, expanded, or diverted is closer than
25 18 five hundred feet ~~away~~ from a confinement feeding operation
25 19 structure.

25 20 (2) A major water source shall not be constructed,
25 21 expanded, or diverted, if the major water source as
25 22 constructed, expanded, or diverted is closer than one thousand
25 23 three hundred twenty feet from a confinement feeding operation
25 24 structure.

25 25 (3) A designated wetland shall not be established, if the
25 26 designated wetland is closer than two thousand ~~five six~~
25 27 hundred ~~forty~~ feet ~~away~~ from a confinement feeding operation
25 28 structure.

25 29 Sec. 27. Section 459.310, subsection 3, Code 2007, is
25 30 amended to read as follows:

25 31 3. A standard minimum separation distance required in
25 32 subsection 1 shall not apply to any of the following:

~~25 33 a. A location or object and a farm pond or privately owned
25 34 lake, as defined in section 462A.2.~~

25 35 ~~b. a.~~ A confinement feeding operation building, an egg
26 1 washwater storage structure, or a manure storage structure
26 2 constructed with a secondary containment barrier. The
26 3 department shall adopt rules providing for the construction
26 4 and use of a secondary containment barrier, including
26 5 construction design standards.

~~26 6 b. A confinement feeding operation subject to an
26 7 alternative minimum separation distance requirement, in lieu
26 8 of the standard minimum separation distance required in
26 9 subsection 1, determined as follows:~~

~~26 10 (1) The department may adopt rules providing for an
26 11 increase in the standard minimum separation distance
26 12 requirement in order to protect the integrity of a water of
26 13 the state. The increased separation distance requirement
26 14 shall be not more than the following:~~

~~26 15 (a) For the surface inlet of an agricultural drainage
26 16 well, two thousand feet.~~

~~26 17 (b) For a wellhead, cistern of an agricultural drainage
26 18 well, or known sinkhole, two thousand six hundred forty feet.~~

~~26 19 (2) The department may adopt rules to decrease the
26 20 standard minimum separation distance requirement if the
26 21 department determines that the alternative minimum separation
26 22 distance requirement protects the integrity of a water of the
26 23 state to the same extent as the standard minimum separation
26 24 distance requirement. The department may also act on a
26 25 case-by-case basis to grant a waiver to a person applying for
26 26 a decrease in the standard minimum separation distance
26 27 requirement based on the same determination.~~

26 28 Sec. 28. Section 459.310, subsection 4, unnumbered
26 29 paragraph 1, Code 2007, is amended to read as follows:

26 30 A standard minimum separation distance required in
26 31 subsection 1, ~~or the prohibition against construction of a~~
26 32 confinement feeding operation structure on a one hundred year
26 33 floodplain as provided in subsection 2, ~~and the alternative~~
26 34 ~~minimum separation distance requirement provided in subsection~~
26 35 ~~3, shall not apply to a confinement feeding operation that~~
27 1 ~~includes a confinement feeding operation structure that was~~
27 2 ~~constructed prior to March 1, 2003, if any of the following~~
27 3 ~~apply:~~

27 4 Sec. 29. Section 459.311, subsection 2, Code 2007, is
27 5 amended to read as follows:

27 6 2. Manure from an animal feeding operation shall be
27 7 disposed of in a manner which will not cause surface water or
27 8 groundwater pollution. Disposal in accordance with the
27 9 provisions of state law, including this chapter, rules adopted
27 10 pursuant to the provisions of state law, including this
27 11 chapter, ~~and guidelines adopted pursuant to this chapter, and~~
27 12 ~~section 459.314, shall be deemed as compliance with this~~
27 13 ~~requirement.~~

27 14 Sec. 30. Section 459.312, subsection 1, paragraph a, Code
27 15 2007, is amended to read as follows:

27 16 a. The owner of a confinement feeding operation, other
27 17 than a small animal feeding operation, ~~if any of the following~~
27 18 ~~apply:~~

~~27 19 (1) The confinement feeding operation was constructed
27 20 after May 31, 1985, regardless of whether the confinement
27 21 feeding operation structure was required to be constructed
27 22 pursuant to a construction permit.~~

~~27 23 (2) The owner constructs a manure storage structure,
27 24 regardless of whether the person is required to be issued a
27 25 permit for the construction pursuant to section 459.303 or
27 26 whether the person has submitted a prior manure management
27 27 plan.~~

27 28 Sec. 31. Section 459.312, subsection 10, unnumbered
27 29 paragraph 1, Code 2007, is amended to read as follows:

27 30 ~~A~~ Except as otherwise provided in this section, a manure

27 31 management plan shall include all of the following standard
27 32 minimum requirements:

27 33 Sec. 32. Section 459.312, subsection 10, is amended by
27 34 adding the following new paragraph:
27 35 NEW PARAGRAPH. h. Best management practices for operating
28 1 the confinement feeding operation which are part of a
28 2 community-based odor assessment report which the department
28 3 approves as part of an application for a permit to construct a
28 4 confinement feeding operation structure which is part of the
28 5 confinement feeding operation as provided in section 459.303.

28 6 Sec. 33. Section 459.312, Code 2007, is amended by adding
28 7 the following new subsection:

28 8 NEW SUBSECTION. 10A. The department may provide a
28 9 procedure for the approval and monitoring of alternative or
28 10 experimental practices, mechanisms, processes, or
28 11 infrastructure which meets the purposes of this section, which
28 12 may be incorporated as part of the manure management plan.
28 13 The department may approve a manure management plan that
28 14 includes an alternative minimum requirement in lieu of a
28 15 standard minimum requirement otherwise provided in this
28 16 section. The department may approve the alternative minimum
28 17 requirement on a trial or permanent basis.

28 18 Sec. 34. Section 459.313, Code 2007, is amended to read as
28 19 follows:

28 20 459.313 MANURE APPLICATION == RULES.

28 21 This section applies to the application of manure from an
28 22 animal feeding operation.

28 23 1. The department shall adopt rules governing all of the
28 24 following:

28 25 a. The application of manure in close proximity to any of
28 26 the following:

28 27 (1) A designated groundwater access point.

28 28 (2) A water source.

28 29 (3) A designated wetland.

28 30 b. The application of manure originating from an anaerobic
28 31 lagoon or aerobic structure which is part of a confinement
28 32 feeding operation. The rules shall establish application
28 33 rates and practices to minimize groundwater or surface water
28 34 pollution resulting from application, including pollution
28 35 caused by runoff or other manure flow resulting from
29 1 precipitation events. The rules shall establish different
29 2 application rates and practices based on the water holding
29 3 capacity of the soil at the time of application.

29 4 2. A person shall ~~not only~~ apply manure by spray

29 5 irrigation equipment, ~~except as follows:~~

29 6 a. A person shall not apply manure by using spray

29 7 irrigation equipment if the manure originates from a swine
29 8 confinement feeding operation.

29 9 b. A person may apply manure by spray irrigation equipment
29 10 if the manure is from an animal feeding operation other than a
29 11 swine confinement feeding operation and the person applies the
29 12 liquid manure as provided by rules adopted by the department

29 13 pursuant to chapter 17A. However, a person shall not use
29 14 restricted spray irrigation equipment to apply manure
29 15 originating from a confinement feeding operation, unless the
29 16 manure has been diluted as provided by rules adopted by the
29 17 department, including diluted by use of an anaerobic lagoon.

29 18 3. a. Except as provided in paragraph "b", a person shall
29 19 not apply manure if the manure is applied closer than a

29 20 standard minimum separation distance requirement as follows:

29 21 (1) For a designated groundwater access point, two hundred
29 22 feet.

29 23 (2) For a water source other than a high-quality water
29 24 resource, two hundred feet.

29 25 (3) For a high-quality water resource, four hundred feet.

29 26 b. The department provides for an alternative minimum
29 27 separation distance requirement in lieu of the standard
29 28 minimum separation distance requirement in paragraph "a" for a
29 29 high-quality water resource. The alternative minimum
29 30 separation distance requirement shall increase the standard
29 31 minimum separation distance requirement as necessary to
29 32 protect the integrity of the high-quality water resource as
29 33 provided by rules adopted by the department.

29 34 Sec. 35. DEPARTMENT OF NATURAL RESOURCE STUDY ==
29 35 REEVALUATION OF MASTER MATRIX. The department of natural

30 1 resources shall conduct a reevaluation of the master matrix
30 2 used to evaluate confinement feeding operations as provided in
30 3 section 459.305.

30 4 1. The department shall consider if the master matrix
30 5 provides a comprehensive assessment mechanism in order to
30 6 produce a statistically verifiable basis for determining

30 7 whether to approve or disapprove an application for the
30 8 construction, including expansion, of a confinement feeding
30 9 operation structure requiring a permit pursuant to section
30 10 459.303.

30 11 2. The department shall consider the categories and
30 12 criteria listed as part of each of the categories, the point
30 13 totals in each category required to achieve a satisfactory
30 14 rating, and the deduction of points.

30 15 3. The department shall prepare and submit a report to the
30 16 governor and general assembly not later than January 11, 2008.
30 17 The report shall contain findings and recommendations.

30 18 Sec. 36. Section 459.203, Code 2007, is repealed.

30 19 Sec. 37. Section 459.314, Code 2007, is repealed.

30 20 Sec. 38. IMPLEMENTATION OF ACT. Section 25B.2, subsection
30 21 3, shall not apply to this Act.

30 22 Sec. 39. EFFECTIVE DATE. The section of this Act
30 23 requiring the department of natural resources to conduct a
30 24 reevaluation of the master matrix used to evaluate confinement
30 25 feeding operations, being deemed of immediate importance,
30 26 takes effect upon enactment.

30 27 DIVISION II

30 28 TAXATION INVOLVING ANIMAL FEEDING OPERATIONS

30 29 Sec. 40. Section 427.1, subsection 19, Code 2007, is
30 30 amended to read as follows:

30 31 19. POLLUTION CONTROL AND RECYCLING. Pollution=control or
30 32 recycling property as defined in this subsection shall be
30 33 exempt from taxation to the extent provided in this
30 34 subsection, upon compliance with the provisions of this
30 35 subsection.

31 1 a. This exemption shall apply to new installations of
31 2 pollution=control or recycling property beginning on January 1
31 3 after the construction or installation of the property is
31 4 completed. This exemption shall apply beginning on January 1,
31 5 1975, to existing pollution=control property if its
31 6 construction or installation was completed after September 23,
31 7 1970, and this exemption shall apply beginning January 1,
31 8 1994, to recycling property.

31 9 b. This exemption shall be limited to the market value, as
31 10 defined in section 441.21, of the pollution=control or
31 11 recycling property. If the pollution=control or recycling
31 12 property is assessed with other property as a unit, this
31 13 exemption shall be limited to the net market value added by
31 14 the pollution=control or recycling property, determined as of
31 15 the assessment date.

31 16 c. Application for this exemption shall be filed with the
31 17 assessing authority not later than the first of February of
31 18 the first year for which the exemption is requested, on forms
31 19 provided by the department of revenue.

31 20 (1) The application shall describe and locate the specific
31 21 pollution=control or recycling property to be exempted.

31 22 (2) The application for a specific pollution=control or
31 23 recycling property shall be accompanied by a certificate of
31 24 the department of natural resources certifying that the
31 25 primary use of the pollution=control property is to control or
31 26 abate pollution of any air or water of this state or to
31 27 enhance the quality of any air or water of this state or, if
31 28 the property is recycling property, that the primary use of
31 29 the property is for recycling.

31 30 d. A taxpayer may seek judicial review of a determination
31 31 of the department or, on appeal, of the environmental
31 32 protection commission in accordance with the provisions of
31 33 chapter 17A.

31 34 e. The environmental protection commission of the
31 35 department of natural resources shall adopt rules relating to
32 1 certification under this subsection and information to be
32 2 submitted for evaluating pollution=control or recycling
32 3 property for which a certificate is requested. The department
32 4 of revenue shall adopt any rules necessary to implement this
32 5 subsection, including rules on identification and valuation of
32 6 pollution=control or recycling property. All rules adopted
32 7 shall be subject to the provisions of chapter 17A.

32 8 f. For the purposes of this subsection, ~~"pollution=control~~
32 9 ~~all of the following apply:~~

32 10 (1) (a) "Pollution=control property" means personal
32 11 property or improvements to real property, or any portion
32 12 thereof, used primarily to control or abate pollution of any
32 13 air or water of this state or used primarily to enhance the
32 14 quality of any air or water of this state and "recycling
32 15 property" means personal property or improvements to real
32 16 property or any portion of the property, used primarily in the
32 17 manufacturing process and resulting directly in the conversion

32 18 of waste glass, waste plastic, wastepaper products, waste
32 19 paperboard, or waste wood products into new raw materials or
32 20 products composed primarily of recycled material. In the
32 21 event such property shall also serve other purposes or uses of
32 22 productive benefit to the owner of the property, only such
32 23 portion of the assessed valuation thereof as may reasonably be
32 24 calculated to be necessary for and devoted to the control or
32 25 abatement of pollution, to the enhancement of the quality of
32 26 the air or water of this state, or for recycling shall be
32 27 exempt from taxation under this subsection.

32 28 (b) "Pollution=control property" or "recycling property"
32 29 does not include property used for purposes related to the
32 30 care and feeding of livestock as defined in section 169C.1,
32 31 except for property which is eligible for a family farm tax
32 32 credit as provided in chapter 425A. The exemption calculated
32 33 for pollution=control property or recycling property used for
32 34 the purpose of care and feeding of livestock and which is
32 35 eligible for a family farm tax credit is limited to the first
33 1 one hundred thousand dollars of the property's assessed value.

33 2 (2) For the purposes of this subsection, "pollution"
33 3 "Pollution" means air pollution as defined in section 455B.131
33 4 or water pollution as defined in section 455B.171.

33 5 (3) "Water of the state" means the water of the state as
33 6 defined in section 455B.171.

33 7 (4) "Enhance the quality" means to diminish the level of
33 8 pollutants below the air or water quality standards
33 9 established by the environmental protection commission of the
33 10 department of natural resources.

33 11 Sec. 41. APPLICABILITY. This division of this Act is
33 12 applicable for tax years beginning on and after January 1,
33 13 2008.

33 14 EXPLANATION

33 15 DIVISION I == REGULATION OF ANIMAL FEEDING OPERATIONS.

33 16 This bill amends provisions in Code chapter 459 regulating
33 17 animal feeding operations (a place where livestock are
33 18 confined and fed and maintained for 45 days or more in any
33 19 12-month period), and specifically confinement feeding
33 20 operations and their associated structures (confinement
33 21 buildings, manure storage structures, and egg washwater
33 22 storage structures). A manure storage structure includes both
33 23 a formed structure made of concrete or steel. An unformed
33 24 manure storage structure is an impoundment used to store
33 25 manure including an anaerobic lagoon, aerobic structure, or
33 26 earthen manure storage basin (where wastes are removed at
33 27 least one each year). The Code chapter also regulates the
33 28 application of manure originating from an animal feeding
33 29 operation.

33 30 AIR QUALITY == SITING. Code section 459.202 provides
33 31 various separation distance requirements between confinement
33 32 feeding operation structures and homes, schools, businesses,
33 33 churches, public use areas (portions of parks and cemeteries).
33 34 The Code section also provides various separation distance
33 35 requirements between those structures and homes, schools,
34 1 businesses, and churches located within the corporate limits
34 2 of a city. According to Code section 459.202, the amount of
34 3 the separation distance required depends upon: (1) when the
34 4 confinement feeding operation structure was constructed or
34 5 expanded which is related to the date when a new separation
34 6 distance became effective, and (2) the size of the confinement
34 7 feeding operation which increases the distance according to
34 8 the capacity of the confinement feeding operation (either by
34 9 animal weight capacity or animal unit capacity).

34 10 Code section 459.203 provides that a confinement feeding
34 11 operation constructed or expanded prior to the date that a
34 12 distance requirement became effective may continue to operate
34 13 regardless of the new distance requirement, and under certain
34 14 circumstances may be expanded. For example, a confinement
34 15 feeding operation may expand if it continues to meet the
34 16 separation distance requirements applicable when the
34 17 confinement feeding operation was established or it meets
34 18 minimum capacity threshold requirements after expansion. It
34 19 may expand so long as the confinement feeding operation stays
34 20 within a minimum capacity (e.g., double its capacity on the
34 21 date that a new separation requirement was established).
34 22 Finally, it authorizes expansion by replacing an unformed
34 23 (earthen) manure storage structure with a formed (concrete)
34 24 manure storage structure.

34 25 AIR QUALITY SITING == INCREASED SEPARATION DISTANCES. The
34 26 bill amends Code section 459.202 to provide increased
34 27 separation distance requirements for confinement feeding
34 28 operation structures constructed on or after the effective

34 29 date of the bill, or expanded on or after the effective date
34 30 of the bill regardless of the date of construction. It adds a
34 31 number of new types of places benefiting from the separation
34 32 distance requirements, including a city, a structure
34 33 associated with a gestating-to-farrowing operation, a lot of a
34 34 planned residential housing development which has been
34 35 platted, and a tourism destination as provided by the
35 1 department of economic development in cooperation with the
35 2 department of natural resources. All places which benefit
35 3 from a separation distance are referred to collectively as a
35 4 "benefited object or location". The separation distance
35 5 requirement is increased if the tourism destination is a
35 6 high-quality water resource. It also provides a special
35 7 separation distance for a qualified city which is classified
35 8 as an Iowa great place. The bill eliminates special
35 9 provisions that allow a confinement feeding operation
35 10 established prior to a given effective date of a separation
35 11 distance to expand, with one exception. A confinement feeding
35 12 operation may expand by replacing an unformed manure storage
35 13 structure with a formed manure structure regardless of the
35 14 date that the confinement feeding operation was constructed.

35 15 The bill requires in new Code section 459.202A that Iowa
35 16 state university establish a community-based odor assessment
35 17 process that utilizes computer modeling to analyze the
35 18 statistical probability of dispersions of odor emitted from a
35 19 confinement feeding operation structure based on an odor
35 20 threshold. Based on a finding of that odor threshold, a
35 21 confinement feeding operation may be located within the
35 22 standard minimum separation distance requirements, unless the
35 23 department determines that construction would be detrimental
35 24 to persons at the benefited object or location.

35 25 Code section 459.205 provides a number of exceptions to the
35 26 separation distance requirements including when: (1) the
35 27 confinement feeding operation qualifies as a small animal
35 28 feeding operation (having an animal unit capacity of 500 or
35 29 fewer animal units), (2) the neighboring titleholder
35 30 benefiting from separation distance executes a written waiver
35 31 with the titleholder of the land where the confinement feeding
35 32 operation structure is located, or (3) the object or location
35 33 benefiting from the separation distance requirement encroaches
35 34 within the separation distance. The bill eliminates the
35 35 exception for confinement feeding operations associated with
36 1 small animal feeding operations, and makes the existing
36 2 exceptions applicable to the new types of benefited objects or
36 3 locations.

36 4 AIR QUALITY == MANURE APPLICATION. Code section 459.204
36 5 provides that a person cannot apply liquid manure originating
36 6 from a confinement feeding operation on land located within
36 7 750 feet from a benefited object or location. Code section
36 8 459.205 provides exceptions from the separation distance
36 9 requirements if: (1) the liquid manure is injected into the
36 10 soil or incorporated within the soil not later than 24 hours
36 11 from the original application, (2) the titleholder of the land
36 12 benefiting from the separation distance executes a written
36 13 waiver, (3) the liquid manure originates from a small animal
36 14 feeding operation, or (4) the liquid manure is applied by
36 15 spray irrigation equipment.

36 16 The bill provides that a person cannot apply dry manure
36 17 closer than 400 feet from the object or location. The bill
36 18 provides that liquid manure must be incorporated within or
36 19 injected into the soil within the same day. It retains the
36 20 exceptions in cases of waiver, and eliminates an exception for
36 21 small animal feeding operations and spray irrigation.

36 22 WATER QUALITY == SITING. Code section 459.310 provides
36 23 that a confinement feeding operation structure cannot be
36 24 constructed closer than a specific distance from the opening
36 25 to groundwater (i.e., the surface inlet of an agricultural
36 26 drainage well or a wellhead, cistern of an agricultural
36 27 drainage well, or known sinkhole) and also from areas where
36 28 surface water is present; a water source such as a lake,
36 29 river, reservoir, creek, or stream; a major water source
36 30 capable of supporting a floating vessel during a total of a
36 31 six-month period in 10 years; or a wetland designated by the
36 32 federal or state government. The Code section provides that
36 33 the same distance requirements that apply to the construction
36 34 of a confinement feeding operation in proximity to an area
36 35 where surface water is present also apply to the establishment
37 1 of an area of surface water in proximity to an existing
37 2 confinement feeding operation structure.

37 3 WATER QUALITY SITING == INCREASED SEPARATION DISTANCES FOR
37 4 SUBSURFACE WATER. The division increases the separation

37 5 distances applicable to openings to groundwater (referred to
37 6 as a designated groundwater access point) including a surface
37 7 inlet of an agricultural drainage well, wellhead, cistern of
37 8 an agricultural drainage well, or known sinkhole.
37 9 WATER QUALITY SITING == INCREASED SEPARATION DISTANCES FOR
37 10 SURFACE WATER. The bill increases the separation distances
37 11 applicable to areas where surface water is present including a
37 12 major water source, and a designated wetland. These increased
37 13 separation distances apply to both construction of confinement
37 14 feeding operation structures and the establishment or
37 15 diversion of water sources or designated wetlands. The bill
37 16 provides that the department may increase or decrease these
37 17 separation distances.
37 18 WATER QUALITY == CONSTRUCTION OR EXPANSION OF EARTHEN
37 19 MANURE STORAGE BASINS PROHIBITED. The bill prohibits a person
37 20 from constructing or expanding an earthen manure storage
37 21 structure (an impoundment in which manure is accumulated
37 22 without removal for at least once each year) which is part of
37 23 a swine confinement feeding operation.
37 24 WATER QUALITY == APPLICATION == SPRAY IRRIGATION EQUIPMENT.
37 25 The bill prohibits the use of spray irrigation equipment to
37 26 apply manure if the manure originates from a swine confinement
37 27 feeding operation.
37 28 APPROVAL OF CONSTRUCTION PERMITS == MATRIX. Code sections
37 29 459.304 and 459.305 provide for county participation in the
37 30 approval of permits for the construction of confinement
37 31 feeding operation structures by the department of natural
37 32 resources. Currently, counties are prohibited from adopting
37 33 or enforcing county legislation regulating a condition or
37 34 activity occurring on land used for the production, care,
37 35 feeding, or housing of animals unless the regulation is
38 1 expressly authorized by state law (Code section 331.304A).
38 2 One exception allows a county to provide comments to the
38 3 department regarding the issuance of a permit for construction
38 4 of confinement feeding operation structures. A second
38 5 exception allows a county to participate in the scoring of a
38 6 master matrix. The purpose of the master matrix is to provide
38 7 a comprehensive assessment mechanism in order to produce a
38 8 statistically verifiable basis for determining whether to
38 9 approve or disapprove an application for a construction
38 10 permit. A county board of supervisors may adopt a
38 11 construction evaluation resolution in order to use a master
38 12 matrix. If the board submits a resolution to the department,
38 13 the board may evaluate a construction permit application and
38 14 submit a recommendation to the department to approve or
38 15 disapprove the application. The department must approve an
38 16 application if the board submits a recommendation to approve
38 17 the application, and the department determines that the
38 18 application meets the requirements of Code chapter 459. The
38 19 department must disapprove an application that the department
38 20 determines does not satisfy the requirements of Code chapter
38 21 459 regardless of the recommendation from the board. If the
38 22 board submits a recommendation to disapprove the application,
38 23 the department must first determine if the application meets
38 24 the requirements of Code chapter 459. If the application
38 25 meets the requirements of the chapter, the department must
38 26 conduct an independent evaluation of the application using the
38 27 master matrix. The department must approve the application if
38 28 it achieves a satisfactory rating according to the
38 29 department's evaluation. The department must disapprove the
38 30 application if it produces an unsatisfactory rating regardless
38 31 of whether the application satisfies the requirements of Code
38 32 chapter 459. Both the applicant and the board may contest the
38 33 department's decision to the environmental protection
38 34 commission. The applicant may also contest the decision as a
38 35 contested case proceeding before an administrative law judge.
39 1 PARTICIPATION REQUIRED. The bill amends Code section
39 2 331.304A to specifically require that a county must
39 3 participate in reviewing an application to construct a
39 4 confinement feeding operation structure to be located in the
39 5 county. The county is allowed to assess a fee of \$100 for
39 6 processing the application. The bill amends Code sections
39 7 459.303 relating to the issuance of permits and 459.304
39 8 providing for county participation, by providing that the
39 9 department shall only issue a permit to construct a
39 10 confinement feeding operation structure after the review of an
39 11 application by the board of supervisors in the county where
39 12 the proposed construction is to be located. The review must
39 13 consist of providing for a public hearing and collecting
39 14 comments and engaging in an analysis of the application using
39 15 the master matrix.

39 16 The bill eliminates references to the construction
39 17 evaluation resolution. The bill requires that the department
39 18 must receive the board's comments or recommendation to approve
39 19 or disapprove the application within 60, instead of 30, days
39 20 following the applicant's delivery of the application to the
39 21 department, and must issue or not issue the permit within 90,
39 22 instead of 60, days following the applicant's delivery of the
39 23 application to the department. The bill retains the process
39 24 for departmental review of the application except that the
39 25 department must conduct an independent evaluation of
39 26 applications using the master matrix if a county board of
39 27 supervisors does not submit its evaluation.

39 28 The bill also requires the department to conduct a
39 29 reevaluation of the master matrix and report to the general
39 30 assembly the results of its reevaluation in 2008.

39 31 MANURE MANAGEMENT PLAN. Code section 459.310 requires the
39 32 owner of a confinement feeding operation, or a person taking
39 33 manure from an out-of-state confinement feeding operation for
39 34 application on land in this state, to submit a manure
39 35 management plan to the department for approval. A manure
40 1 management plan must include a number of items relating to the
40 2 application of manure including manure nutrient levels,
40 3 methods, and timing. The bill in Code section 459.312
40 4 provides that best management practices for operating the
40 5 confinement feeding operation which is part of Iowa state
40 6 university's community-based odor assessment report must be
40 7 included as part of the manure management plan. The bill also
40 8 provides that the department may provide a procedure for the
40 9 approval and monitoring of alternative or experimental
40 10 practices.

40 11 STATE MANDATE. The bill may include a state mandate as
40 12 defined in Code section 25B.3. The bill makes inapplicable
40 13 Code section 25B.2, subsection 3, which would relieve a
40 14 political subdivision from complying with a state mandate if
40 15 funding for the cost of the state mandate is not provided or
40 16 specified. Therefore, political subdivisions are required to
40 17 comply with any state mandate included in the bill.

40 18 EFFECTIVE DATE. This part of the bill takes effect on July
40 19 1, 2007, except for the study involving the master matrix
40 20 which takes effect upon enactment.

40 21 APPLICABLE PENALTIES. According to Code section 459.602, a
40 22 person who violates provisions relating to air quality are
40 23 subject to a civil penalty as provided in Code section
40 24 455B.109 which authorizes the environmental protection
40 25 commission to establish penalty amounts according to a
40 26 schedule not to exceed \$10,000. According to Code section
40 27 459.603, a person who violates a provision relating to water
40 28 quality is subject to penalties as provided in Code section
40 29 455B.191 which includes a judicially assessed civil penalty of
40 30 up to \$5,000.

40 31 DIVISION II == TAXATION INVOLVING ANIMAL FEEDING
40 32 OPERATIONS. The bill amends Code section 427.1, which
40 33 provides a number of exemptions from property taxation. The
40 34 section includes an exemption for certain types of
40 35 pollution-control and recycling property as certified by the
41 1 department of natural resources. The bill limits this tax
41 2 exemption for such property that is related to the care and
41 3 feeding of livestock by requiring that the property used for
41 4 the care and feeding of livestock must be eligible for a
41 5 family farm tax credit under Code chapter 425A. The bill also
41 6 provides that the tax credit still available is limited to the
41 7 first \$100,000 of the property's assessed value.

41 8 This part of the bill is applicable for tax years beginning
41 9 on and after January 1, 2008.

41 10 LSB 2838HV 82

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